

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

July 14, 2023

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Land Board Members:

SUBJECT: Mutual Cancellation of Revocable Permit 135 (RP 135) and Waiver of Phase I Environmental Site Assessment Required under RP 135; Issuance of a New Revocable Permit to Destination Kona Coast, Situated at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (por.).

And

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

APPLICANT:

Destination Kona Coast, a Domestic Nonprofit Corporation, whose mailing address is P.O. Box 2850, Kailua-Kona, Hawaii, 96745.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, identified by Tax Map Key: (3) 7-5-006:039 (por.), hereinafter referred to as the "Premises" as shown on the map labeled **EXHIBIT A** and attached hereto.

AREA:

Approximately 1,300 square feet, more or less.

**Item J-3**

ZONING:

State Land Use District: Urban

County of Hawaii CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES  NO

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES  NO

CURRENT USE STATUS:

Revocable Permit issued to Destination Kona Coast for covered area to provide shade to permittee's staff and customers.

CHARACTER OF USE:

Covered area to provide shade to Destination Kona Coast staff and customers, and for storage.

COMMENCEMENT DATE:

July 1, 2023

MONTHLY RENTAL:

\$152.00 per month, based on \$0.50/sq. ft./ mo., prorated for the time Destination Kona Coast actually uses the Premise.

Prorated rent: (Average of 7 cruise ship days per month ÷ 30 days) x (1,300 sf x \$0.50)

COLLATERAL SECURITY DEPOSIT:

Twice the Monthly Rental

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Part 1, Item No. 44, which states, "Permits, licenses,

registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”

REMARKS:

At its meeting on September 23, 2022, under agenda item J-1 (**EXHIBIT B**), the Board approved, as amended, the issuance of a revocable permit to Destination Kona Coast for three 20’x30’ tents, which replaced smaller older tents that were previously installed on the pier. The tents stay up all year round to provide shade for their staff and visitors during the time when cruise ships disembark at Kailua-Kona Pier. The tents are also used during activities and events such as Ironman, canoe club regattas, and fishing tournaments. The area is used as a common area when there are no events or cruise ships in port.

Staff were only able to install 2 out of the 3 new tents in the permit area due to their size (20’x30’). The third tent was installed within a secured fenced area used for cruise ship security check-in purposes. Destination Kona Coast is therefore unable to use this tent, which is instead being used by security on the days the cruise ship is anchored in Kailua Bay. Placement of the tents are shown on **EXHIBIT C**. Destination Kona Coast would like to donate the tent within the secured area to the Division of Boating and Ocean Recreation (DOBOR).

Destination Kona Coast also has a 10’x10’ storage shed in the secured area, in which it stores its table, maps, and brochures, shown on **EXHIBIT D**. It is using State lands without a proper disposition and DOBOR would like to correct that.

Due to the reduced area size, the monthly rental, which is presently at \$210.00, will decrease to \$152.00 as of July 1, 2023, based on a prorated rent.

Staff is requesting the cancellation of RP 135 to Destination Kona Coast and the waiver of the Phase I environmental site assessment, and reissuance of an updated revocable permit.

The applicant has not had a lease, permit, easement, or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the

environment and is therefore exempt from the preparation of an environmental assessment.

2. Based on the testimony and facts presented, the Board finds that approving the revocable permit under the conditions and rent set forth herein will serve the best interests of the State.
3. Approve the cancellation of RP 135 to Destination Kona Coast and the waiver of the Phase I environmental site assessment, and the reissuance of a new revocable permit to Destination Kona Coast at the Kailua-Kona Pier under the terms and conditions cited above, which are by this reference, incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current Revocable Permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. The State shall accept the donated tent at no charge.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator  
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson  
Board of Land and Natural Resources

Attachments:

- A Site Location
- B Board approval dated September 23, 2022, under agenda item J-1
- C Tents on Kailua-Kona Pier
- D Storage Shed on Kailua-Kona Pier

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Mutual Cancellation of Revocable Permit 135 (RP 135) and Waiver of Phase I Environmental Site Assessment Required under RP 135; Issuance of a New Revocable Permit to Destination Kona Coast, Situated at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (por.).
Project / Reference No.:	N/A
Project Location:	Kailua-Kona Pier, Lanihau, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (por).
Project Description:	Cancel and reissue a revocable permit to Destination Kona Coast and waiver of Phase I Environmental Site Assessment.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No(s).:	In accordance with Section 11-200.1-15, Hawaii Administrative Rules and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Part 1, Item No. 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	None. The actions will not be significantly different from what is already existing.
Action May have Significant Impact on Particularly Sensitive Environment?	The requested area is a portion of the Kailua-Kona pier that is visited by tourists and commercial operators and is impacted by human activity. Staff believes there would be no significant impact to sensitive environmental or ecological receptors.
Analysis:	The Board of Land and Natural Resources has previously issued a revocable permit for this use in the past. The proposed activity is of a similar type and scope to that previously approved. Such activities have resulted in no known significant impacts, whether immediate or cumulative to the natural, environmental and/or cultural resources in the area. Staff believes that the request would

	involve negligible or no expansion or change in use of the subject area beyond that previously existing.
Consulted Parties:	None
Recommendation:	It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

# Exhibit A

Site Location  
Kailua-Kona Pier, Hawaii Island  
Destination Kona Coast



# Exhibit B

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

September 23, 2022

APPROVED WITH AMENDMENTS  
BY THE BOARD OF LAND AND  
NATURAL RESOURCES AND ITS  
MEETING HELD ON

SEPTEMBER 23, 2022

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Land Board Members:

SUBJECT: Issuance of a Revocable Permit to Destination Kona Coast located at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (por.).

And

Declare Project Exempt from requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules.

APPLICANT:

Destination Kona Coast, a Domestic Nonprofit Corporation, whose mailing address is P.O. Box 2850, Kailua-Kona, HI 96745.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, identified as Tax Map Key: (3) 7-5-006:039, hereinafter referred to as the "Premises" as shown on the map labeled **EXHIBIT A-1, A-2, and A-3** and attached hereto.

AREA:

Approximately 1,800 square feet, more or less.

Item J-1

**Exhibit B**



ZONING:

State Land Use District: Urban

County of Hawaii: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES X NO \_\_

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_ NO X

CURRENT USE STATUS:

Unencumbered.

CHARACTER OF USE:

Covered area to provide shade to Destination Kona Coast staff and customers.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$900.00 per month, based on an in-house valuation of \$.50 per square foot per month, or \$6.00 per square foot annually.

COLLATERAL SECURITY DEPOSIT:

Twice the Monthly Rental.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing,” Item No. 44, which states, “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”

REMARKS:

Destination Kona Coast provides maps and brochures of local activities to tourists that disembark cruise ships at Kailua-Kona Pier. Besides providing information about history or directions to tourist, they also provide live music and hula performances to entertain guests. On average, they greet 65 to 83 ships a year. Destination Kona Coast currently has three tents up to provide shade and comfort for staff and cruise ship visitors (see Exhibit A-3). They are using state lands without a proper disposition and the Division of Boating and Ocean Recreation (DOBOR) would like to correct that.

Destination Kona Coast will be replacing their old tents with new three 20x30 feet tents, which consist of sprung cable, fabric canopies, and an aluminum alloy frame. The tents would be placed on the north end of Kailua-Kona Pier to provide shade for visitors and staff. Destination Kona Coast will keep the tents up all year round. They will be used for activities and events, such as the Queen Liliuokalani Outrigger Canoe Races, Ironman, Bid Island Bill Fish Tournament, and more.

Although Destination Kona Coast’s articles of incorporation say it is organized exclusively for charitable, religious, educational, and scientific purposes within the meaning of Section 501(c)3 of the Internal Revenue Code, it has not received a determination letter from the IRS confirming its 501(c)3 status. Its website and tax returns currently state it is a 501(c)6 organization. Staff believes its activities are ultimately commercial in nature and not eligible for the minimum allowable rent.

Staff recommends the Board approve to issuance of a revocable permit to Destination Kona Coast for the use of state lands for the purpose of proving shade structures.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the

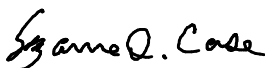
environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize issuance of a Revocable Permit to Destination Kona Coast at Kailua-Kona Pier under the terms and conditions cited above, which are by this reference, incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current Revocable Permit form, as may be amended from time to time; and
  - b. Review and approval by the Department of the Attorney General.
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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EDWARD R. UNDERWOOD, Administrator  
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:

  
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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachment:

- A-1 Site Location
- A-2 Site Location
- A-3 Site Location

BLNR Meeting, September 23, 2022 Item J-1 : Approved as amended.

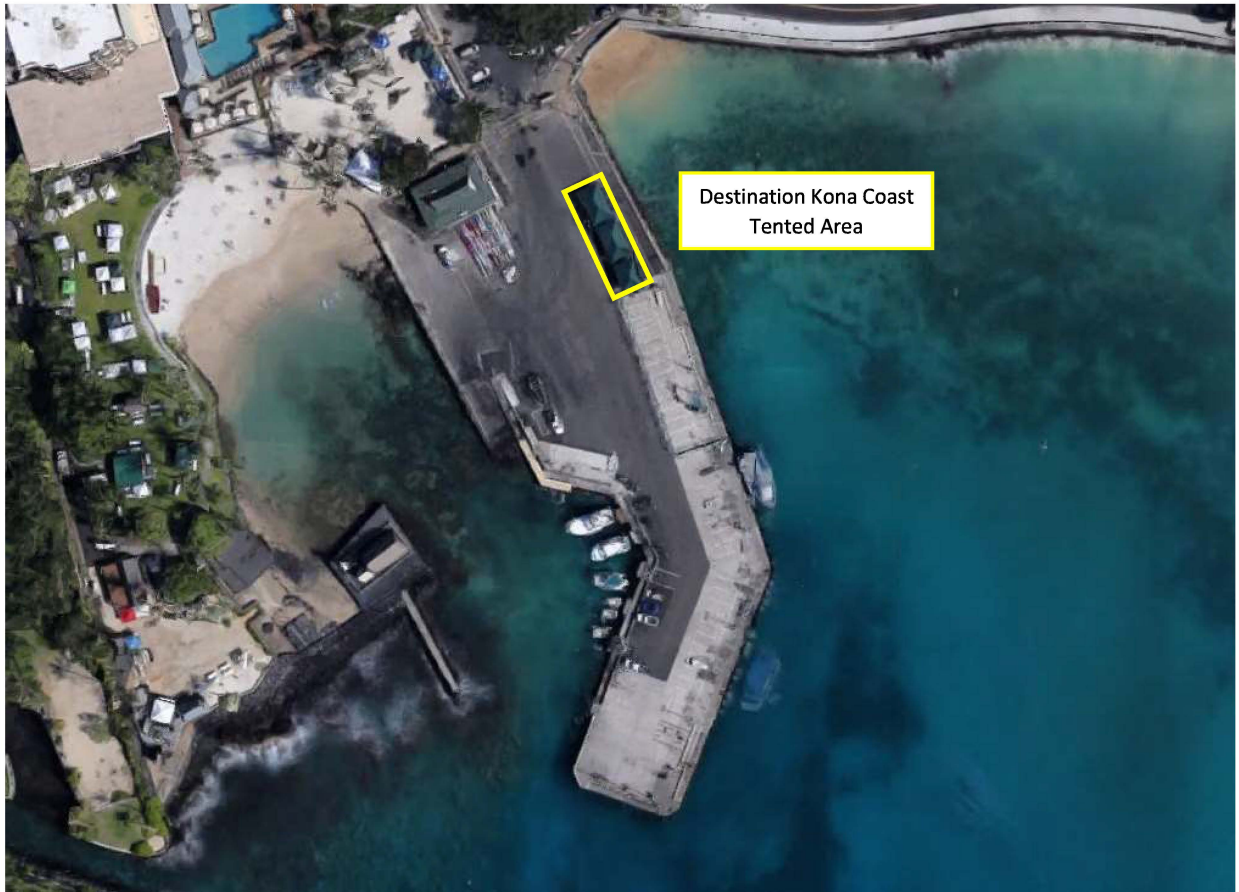
**Approved as Amended.**

- Add as recommendation #2, "Based on the testimony and facts presented, the Board finds that approving the RP under conditions and rent set forth herein will serve the best interests of the state." The prior recommendation #2 will become #3.
- Monthly rent amended to \$210/mo.

**Exhibit A-1**  
**Kailua Bay**



**Exhibit A-2**  
**Kailua-Kona Pier**



**Exhibit A-3**  
**Destination Kona Coast Pre-existing Tents**



## Exhibit C

Destination Kona Coast Tents  
Kailua-Kona Pier, Hawaii Island





## Exhibit D

Destination Kona Coast Storage Shed (10'x10') Within Secured Area  
Kailua-Kona Pier, Hawaii Island

